

Remarks

1. The Examiner's December 27, 2004 office action was designated as being final. This response is filed contemporaneously with the Applicant's *Request for Continued Examination*. The Applicants' request for payment via withdrawal from deposit account is set forth below.

Wherefore, the Applicants request withdrawal of the Examiner's Final Rejection notation, and the Applicants request continued examination.

2. The Applicants formerly denominated the structures identified by Reference Numerals 38 and 44 as "D" braces since those structures serve to complete structural figures which suggest the letter "D". In response to the Examiner's objection to such naming of structures, the Specification and the Claims have been amended to cause each reference to "D" braces to simply refer to "braces". The term "braces" appears in the Specification and is accurately descriptive.

Wherefore, the Applicants respectfully request that the Examiner's objection to the drawings be withdrawn, and that the Examiner allow the Applicants' designations of structures 38 and 44 to stand and remain as "braces".

3. The Examiner has rejected Unamended Claim 1 under 35 U.S.C. § 102(b) as being anticipated by *Stone '721*. The Applicants respectfully traverse said rejection and request that the Examiner, upon review of the Amendment to Claim 1 set forth above, and upon

review of the traversing argument set forth below, decline to extend the novelty rejection of Unamended Claim 1 to Amended Claim 1.

ARGUMENT TRAVERSING NOVELTY REJECTION

Unamended Claim 1 of the instant application included a pivot point limitation. (See pg. 18, line 14) Referring simultaneously to Stone's Drawing Figs. 1, 3, and 4, it can be seen that the upper end of link 75 and the lower end of lifter bar 43 are pivotally connected by a pivot pin. The pivot pin is identified in Stone only by its drawing, and no reference numeral and no text directly refers to the pivot pin. For convenience of reference, the pivot pin is referred to hereinbelow as being Stone's link 75/lifter bar 43 connecting pivot pin.

The Applicants understand that the Examiner has concluded that Stone's link 75/lifter bar 43 connecting pivot pin is or may be equated with the pivot point element of unamended Claim 1.

Unamended Claim 1 included limiting language specifying that the fulcrum means is adapted for, upon alternate levering and counter-levering of the lever arm, alternately rearwardly and forwardly moving the pivot point. (See unamended Claim 1, pg. 18, lines 14-18 of the original application.) Referring to Stone's Fig. 3, it can be seen that the movement of the link 75/lifter bar 43 connecting pivot pin is mechanically incapable of moving in any direction other than radially about fulcrum bar 27. Accordingly, the structure in Stone which has been identified by the Examiner as being the variable fulcrum means element of unamended Claim 1 could not be adapted for moving the link 75/lifter arm 43 connecting pivot pin forwardly or rearwardly as

was required by unamended Claim 1. Stone's variable fulcrum means exclusively moves Stone's pivot point radially.

Since Stone's variable fulcrum means only moves Stone's pivot point radially. The Applicants respectfully assert that the Examiner could have appropriately declined to conclude that such means is adapted for forwardly and rearwardly moving the pivot point. Upon making such a conclusion, the Examiner also could have appropriately declined to determine that Stone anticipates the instant invention, and the Examiner could have appropriately allowed unamended Claim 1.

In order to more clearly distinguish the machine of unamended Claim 1 from the apparatus of Stone, Claim 1 has been amended to specify that the alternate rearward motion of the pivot point is toward the rearward end of the lever arm, and to further specify that the alternate forward motion of the pivot point is toward the forward end of the lift arm. Looking to Stone's Fig. 3, it is mechanically impossible for the link 75/lifter bar 43 connecting pivot pin move forwardly or rearwardly with respect to the structures which have been identified by the Examiner as being Stone's lift arm and lever arm ends. Stone's pivot point moves only radially, and never toward or away from any end of its lift/lever arm.

The Amendment of Claim 1 is fully supported by the drawings and the Specification as originally filed, and no new matter is inserted via the Amendment.

The Federal Circuit holds that anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. See *W.L. Gore & Associates v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). However,

it is not sufficient that a cited prior art reference disclose all the claimed elements. Instead, as held by the Federal Circuit, anticipation requires the presence in the single reference of disclosure of each and every element of the claimed invention, arranged as in the claim. See *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). Following the standard of *W.L. Gore & Associates*, supra, Amended Claim 1 should be allowed since *Stone* does not teach or disclose the lever arm, lift arm, variable fulcrum means, and pivot point elements of Amended Claim 1. Even if one were to identify within the mechanism of *Stone* four structures which are those four elements, *Lindemann Maschinenfabrik GmbH*, supra, would still militate against a finding of anticipation, since those elements are not arranged as required by Amended Claim 1. The arrangement of elements required by Amended Claim 1 necessarily facilitates rearward and forward motions of the pivot point element with respect to the rearward end of the lever arm element and the forward end of the lift arm element. In the machine of *Stone*, such motions are mechanically impossible. Therefore, the required arrangement is not taught by *Stone*, and the invention described by Amended Claim 1 is not anticipated by *Stone*.

Wherefore, the Applicants respectfully request that the Examiner decline to extend the novelty rejection of unamended Claim 1 to Amended Claim 1. Upon such declination, the Applicants respectfully request allowance of Amended Claim 1.

4. The Examiner has similarly rejected Claims 2-11 as being either anticipated by *Stone*, or as being obvious in view of *Stone*. Each of Claims 2-11 depend from Amended Claim 1, they each having Amended Claim 1 as a common parent. Accordingly, arguments set forth above in support of a decision by the Examiner to decline to extend the novelty rejection of unamended Claim 1 to Amended Claim 1 are here restated in support of allowance of dependent Claims 2-11. Upon allowance of Amended Claim 1, the Applicants respectfully request allowance of dependent Claims 2-11.

5. In the event an Examiner's Amendment would result in allowance of any or all claims, the Applicants invite and would welcome such an amendment.

Request for Payment of Fees by Deposit Account

Authorization to Debit Deposit Account:

Request for payment of a *Continued Prosecution Application* fee in the amount of \$395.00 from the Davis & Jack, L.L.C. USPTO Deposit Acct. No. 50-0550 is hereby made.

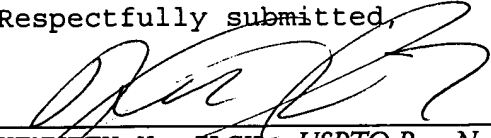
In the event that it is determined that any further payment of fees is necessary to the receipt and filing of the within response, authorization is given to withdraw from the Davis & Jack, L.L.C. USPTO Deposit Acct.

Prayer

WHEREFORE, the Applicants, Larry D. Morris and Terry L. Emond, respectfully request that pending Claims 1-11 be allowed.

DATED: March 17, 2005.

Respectfully submitted,



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